

Message Text

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ACTION ACDA-10

INFO OCT-01 IO-13 ISO-00 FEA-01 CIAE-00 INR-07 L-03

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TAGS: PARM, TECH, IAEA

SUBJ: IAEA PNE AD HOC ADVISORY GROUP: LEGAL ASPECTS

REF: A. IAEA VIENNA 5548, B. IAEA VIENNA 5063

1. SUMMARY: IAEA SECRETARIAT IS PREPARING TO CARRY OUT STUDY AND ANALYSES OF PNE LEGAL ASPECTS AS REQUESTED BY PNE AD HOC ADVISORY GROUP. GOVERNMENTS ARE OFFERED THE OPPORTUNITY TO SUBMIT BY AUGUST 15 FURTHER INPUTS AND COMMENTS FOR THIS WORK. MISSION RECOMMENDS CONSIDERATION BE GIVEN TO PROVISION OF SUCH INPUTS TO ASSIST SECRETARIAT AND TO GUIDE WORK IN DIRECTION PREFERRED BY USG. END SUMMARY.

2. REFTEL (A) ADVISED OF RELEASE BY SECRETARIAT OF GOV/COM. 23/13, ENTITLED BASIC MATERIAL FOR A FURTHER STUDY OF LEGAL ASPECTS OF NUCLEAR EXPLOSIONS FOR PEACEFUL PURPOSES. COPIES WERE POUCHED TO OES, ACDA AND ERDA. THE SECRETARIAT WAS REQUESTED BY PNE AD HOC ADVISORY GROUP TO STUDY
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MATERIAL IN THIS DOCUMENT; TO PREPARE AN ANALYSIS

OF THE WAYS IN WHICH THE RELEVANT MATERIAL COULD BE EMBODIED IN INTERNATIONAL INSTRUMENTS AND PROCEDURES IN REGARD TO PNE PROJECTS INCLUDING, WHERE FEASIBLE, AN ELABORATION OF POSSIBLE PROVISIONS; AND TO DISTRIBUTE A DOCUMENT CONTAINING THIS ANALYSIS ONE MONTH PRIOR TO THE GROUP'S NEXT MEETING NOW SCHEDULED TO BEGIN NOVEMBER 8. THE PURPOSE OF THIS ANALYSIS IS TO ASSIST THE GROUP IN PREPARING ADVICE TO THE BOARD ON THE FACTORS INVOLVED IN THE ESTABLISHMENT AND OPERATION OF AN INTERNATIONAL SERVICE FOR PNE AND ON THE STRUCTURE AND CONTENT OF AGREEMENTS NECESSARY UNDER ARTICLE V OF THE NPT. AS NOTED IN PARAGRAPH 2 OF REFTEL, A, GOVERNMENTS WERE OFFERED THE OPPORTUNITY TO PROVIDE ADDITIONAL COMMENTS AS INPUTS TO THE SECRETARIAT'S STUDY AND ANALYSIS IF DONE SO BY AUGUST 1.

3. THE MISSION HAS NOW RECEIVED FROM THE SECRETARIAT A LETTER FORMALLY TRANSMITTING GOV/COM. 23/13 TO GOVERNMENTS AND SOLICITING THE ABOVE NOTED COMMENTS WITH THE DUE DATE EXTENDED TO AUGUST 15. AS INDICATED IN PARAGRAPHS 11 AND 12 OF REFTEL B, THE REQUESTED SECRETARIAT STUDY AND ANALYSIS WILL ENCOMPASS THE MORE POLITICALLY DIFFICULT AND SENSITIVE ASPECTS OF THE GROUP'S WORK. THIS INCLUDES THE MANY SPECIFIC PRINCIPLES OR ISSUES, E.G., LIABILITY; THE ACTUAL FORMULATION OF PROVISIONS COVERING THESE MATTERS; AND THE LEGAL INSTRUMENTS AND PROCEDURES INTO WHICH THE PROVISIONS MIGHT BE INCORPORATED.

4. MISSION RECOMMENDS THAT GOV/COM. 23/13, PARTICULARLY ANNEX II, BE CAREFULLY REVIEWED, KEEPING IN MIND THE COMPROMISES INVOLVED IN ITS PREPARATION AS NOTED IN PARAGRAPHS 11 AND 12 OF REFTEL B, AND THAT CONSIDERATION BE GIVEN TO PROVIDING SECRETARIAT BY AUGUST 15 WITH COMMENTS REGARDING (A) ADDITIONAL PRINCIPLES OR MATTERS TO BE CONSIDERED BY SECRETARIAT IN THEIR STUDY AND ANALYSIS; (B) SPECIFIC FORMULATIONS OF PRINCIPLES OR VIEWS REGARDING SUCH FORMULATIONS; (C) THE PREFERRED WAY OR WAYS IN WHICH THESE PROVISIONS AND MATERIAL COULD BE EMBODIED IN INTERNATIONAL INSTRUMENTS; LIMITED OFFICIAL USE

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AND (D) THE NATURE OF SUCH INSTRUMENTS. WHILE THERE WILL BE AN OPPORTUNITY FOR THE US TO MAKE SUCH COMMENTS DURING THE GROUP'S REVIEW IN NOVEMBER OF THE SECRETARIAT'S STUDY AND ANALYSIS, MISSION BELIEVES THAT USG INTERESTS WOULD BE BETTER ADVANCED BY PROVIDING FURTHER INPUTS TO THE SECRETARIAT'S WORK AS WELL AS COMMENTING ON IT IN NOVEMBER. MISSION UNDERSTANDS THAT UK IS CONSIDERING OFFERING SERVICES OF EDWARDS TO ASSIST SECRETARIAT IN

THEIR WORK. EDWARDS WAS VERY COMPETENT CHAIRMAN OF
THE LEGAL ASPECTS WORKING PARTY DURING THE MAY 31-
JUNE 11 GROUP MEETING.STONE

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